

Date

Ed J. Fenasci

Executive Director

Louisiana Horsemen's Benevolent & Protective Association 1993, Inc.

1535 Gentilly Boulevard.

New Orleans, Louisiana 70119

**Re: Docket No. 2022-287  
Advisory Opinion**

Dear Mr. Fenasci:

The Louisiana Board of Ethics ("Board"), at its meeting on May 6, 2022, considered your request for an advisory opinion regarding whether the Code of Governmental Ethics ("Code") or any other provision of law under the jurisdiction of the Board would prohibit Acadiana Practitioners LLC from entering into a contract with the Louisiana Horsemen's Benevolent & Protection Association 1993, Inc. ("HBPA").

#### **FACTS PROVIDED**

HBPA was chartered as a 501(c)(6) non-profit corporation in 1993, with its purpose to protect the interest of the horse owners and trainers, particularly as it relates to their relationships with the owners and managers of racetracks. More specifically, the HBPA operates with the express purpose "... to foster, protect, represent, and promote the welfare and common interest of thoroughbred and quarter horse owners and trainers, to improve conditions in the horse racing industry, to improve relationships between horsemen, other members of the racing industry, and the general public." HBPA mediates on behalf of individual members when problems arise with racetrack management or the State Racing Commission, negotiates fair distributions at race tracks, and monitors state and federal legislative developments in the interest of horsemen. HBPA was not created by the Legislature.

HBPA administers a Medical Benefit Plan with scheduled benefits for its members and their dependents. Although the HBPA appoints the Board of Trustees for the Medical Benefit Plan and shares overhead expenses, the Medical Benefit Trust is a separate legal entity with its own funding sources and operating expenses, separate and apart from HBPA's operations. HBPA receives an allocation of 4% of purse money for hospital and medical benefits for use and benefit of permittees and their employees licensed to race horses in Louisiana, pursuant to the parameters established in La. R.S. 4:183.

HBPA, on behalf of the Medical Benefit Trust, would like to enter into a contract with Acadiana Practitioners, LLC to provide medical care for HBPA members and employees working in the barn area of Evangeline Downs Racetrack in St. Landry Parish State Representative Dustin Miller,

District 40, owns 50% of Acadiana Practitioners LLC. Rep. Miller stated that the staff of Acadiana Practitioners would primarily be providing the medical services, but that he may on occasion provide such services. HBPA has not been issued a license by the Louisiana Gaming Control Board.

## **I. PROHIBITED CONTRACTS – ETHICS CODE**

Whether Rep. Miller and Acadiana Practitioners LLC would be prohibited by the Ethics Code from entering into a contract with HBPA?

### **LAW**

**R.S. 42:1113D(1)(a)** provides that no legislator, or the spouse of such person, nor any legal entity of such person shall enter into any contract with state government.

**R.S. 42:1113D(1)(a)(iii)** states that for purposes of this subsection “legal entity of a person” means any corporation, partnership, or other legal entity in which a legislator or their spouse owns an interest of greater than 5%.

**R.S. 42:1113D(1)(a)(v)** provides that [f]or purposes of this Subsection, “state government” means any branch, agency, department, or institution of state government or with the Louisiana Insurance Guaranty Association, the Louisiana Health Insurance Guaranty Association, or any other state quasi public entity in law.

### **ANALYSIS**

The Code does not define the term “state quasi public entity in law.” The Board notes that the two quasi public entities named in **R.S. 42:1113D(1)(a)(v)**, the Louisiana Insurance Guaranty Association (*R.S. 22:2051, et seq.*) and the Louisiana Health Insurance Guaranty Association (*R.S. 22:2081, et seq.*) were specifically created by the Legislature and designated as public bodies for express limited purposes, such as the Public Records Law (*La. R.S. 44:1, et seq.*).

In this matter, the HBPA was not created by the Legislature. Although it has been designated by the Legislature to provide certain workers compensation benefits, the HBPA has not been designated as a public body subject to any specific provisions of law. *See La. R.S. 4:251.* Without such a designation by the Legislature, the HBPA is not a “state quasi public entity in law.” As such, the Board concluded that **La. R.S. 42:1113D(1)(a)** does not prohibit Rep. Miller and Acadiana Practitioners LLC from entering into a contract with HBPA on behalf of the Medical Benefits Trust.

## **II. PROHIBITED CONTRACT – GAMING CONTROL LAW**

Whether Rep. Miller and Acadiana Practitioners LLC would be prohibited by the Pari-Mutuel Live Racing Facility Economic Redevelopment and Gaming Control Act (*La. R.S. 27:351, et seq.*) from entering into a contract with HBPA?

### **LAW**

**La. R.S. 27:373A(2)** provides that no elected public official shall engage in any business activity with a person who is a licensee except as a patron.

**La. R.S. 27:353(7)** defines “licensee” to mean any person issued a license by the Louisiana Gaming Control Board.

**La. R.S. 27:353(6)** defines “license” to mean the authorization applied for by or issued to the owner of an eligible facility by the Louisiana Gaming Control Board to conduct slot machine gaming at an eligible facility issued pursuant to the provisions of this Chapter. “License” also means the authorization issued by the board to a slot machine owner, a manufacturer, distributor, or a service technician to participate in slot machine gaming operations at eligible facilities.

### **ANALYSIS**

The HBPA is not a licensee within the definition of R.S. 27:353. Therefore, Rep. Miller and Acadiana Practitioners, LLC are not prohibited by R.S. 27:373A(2) from entering into a contract with HBPA to provide medical services. However, the Board cautions that Rep. Miller and Acadiana Practitioners, LLC would be prohibited by R.S. 27:373A(2) from entering into a contract with Evangeline Downs Racetrack to provide services, since it holds a license issued by the Louisiana Gaming Control Board.

### **CONCLUSION**

The Board concluded, and instructed me to inform, that R.S. 42:1113D does not prohibit Rep. Miller and Acadiana Practitioners LLC from entering into a contract with HBPA. The Board also concluded that La. R.S. 27:373A(2) does not prohibit Rep. Miller and Acadiana Practitioners LLC from entering into a contract with HBPA to provide medical services. However, Rep. Miller is prohibited by R.S. 27:373A(2) from providing compensated medical services to a person who holds a license issued pursuant to the Pari-Mutuel Live Racing Facility Economic Redevelopment and Gaming Control Act.

This advisory opinion is based solely on the facts as set forth herein. Changes to the facts as presented may result in a different application of the provisions of the Louisiana Code of Governmental Ethics. The Board issues no opinion as to past conduct or as to laws other than the Louisiana Code of Governmental Ethics, the Campaign Finance Disclosure Act, the Lobbyist Disclosure Acts, and the conflict of interest provisions contained in the Louisiana Gaming Control Law. If you have any questions, please contact me at (800) 842-6630 or (225) 219-5600.

Sincerely,

**LOUISIANA BOARD OF ETHICS**

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Kathleen M. Allen  
For the Board